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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,734	12/29/2000	Thorsten Herfet	411076 9002	6213

7590 04/16/2004

Quarles & Brady  
411 East Wisconsin Avenue  
Milwaukee, WI 53202-4497

EXAMINER
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LEE, CHI HO A

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 04/16/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/646,734

Applicant(s)

HERFET ET AL.

Examiner

Andrew Lee

Art Unit

2663

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 lacks positive recitation. The claim should perform steps for a method claim, such as "determining relative position" as oppose to – determination of the relative time position...".

Claim 8 does not further limit the method claims.

Claim 9 recites the limitation "a device" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "a device" in line 5. There is insufficient antecedent basis for this limitation in the claim.

***Drawings***

3. The drawings are objected to because fig. 1 should include labels. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by  
Woodhead et al U.S. Patent Number 5,640,388.

Re Claim 1, fig. 4 teaches the encoder 116 in the transmission side prepares the data packet with a predefined rate (separated from each other in time) (See col. 9, lines 5-60); fig. 5 teaches the detail of the Dejitter device that determines the jitter between packets (determination of the relative time position) transmitted from the transmission side clock 117 (a system clock) (See col. 7, lines 18-24 & col. 14, lines 25-45), wherein the packet includes timestamps (addition of time information) and transmitted over a jitter introducing network (wireless transmission link); fig. 5 further teaches the Demux (separation) and buffers 122 (intermediate storage) in the Dejitter Device (receiver side) and local clock 132 (an additional system clock) for performing synchronization with the transmission side clock (See col. 13, lines 55-68), wherein the output of the Dejitter packets (same time spacing relative to each other) is controlled by the RCP 126 (preparation of the individual data packets) for the buffer 122.

Re Claims 2, 10, 11, 14, refer to Claim 1, wherein the transmission side encoder (data rate conversion) has different transmission rate and RCP 126 of the Dejitter Device provides rate re-conversion (See col. 11, lines 44-50).

Re Claim 3, refer to Claim 1, wherein timestamps pertains the a corresponding data block in the packet.

Re Claims 4, 5, refer to Claim 1, wherein the system of fig. 4 supports MPEG-2 standard, wherein the standard supports both television and radio programs.

Re Claims 7-9, 15, refer to Claim 4, wherein the decoder 114 receives television and radio programs (one and second consumer device; set top box).

Re Claims 9, 12, refer to Claim 1, fig. 5 teaches a demux MPEG transport stream; a clock 132 (a system clock); LLMP 120 (a device) connected to the clock 132 maintains the time the packet (determines relative position of the individual packets) is entered into the buffer (See col. 13, lines 1-10); RCP 126 add modified timestamp (add time information to data packet); Output Control (a transmitter to emit the data packets).

Re Claim 13, since the jitter introducing network is wireless, it is inherent the receiver includes a radio receiver.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent Number 5,623,483 teaches synchronization system;

U.S. Patent Number 5,883,924 teaches jitter measurement in MPEG-2;

U.S. Patent Number 6,137,949 teaches transmitting variable bit rate according to storage state indicators;

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 703-305-1500. The examiner can normally be reached on Monday to Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 703-308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AI ANDY LEE  
PATENT EXAMINER  
4/13/04